

COMMITTEE ON **MARINE FISHERIES**

LEGISLATIVE RESEARCH COMMISSION

**March 1, 2012**

MINUTES

The LRC Marine Fisheries Committee met on Thursday, March 1, 2012 in Room 643 of the Legislative Office Building at 1:00 P.M. Senators Harry Brown, Don East, Brent Jackson, Jean Preston, Bill Rabon, Tommy Tucker, and Stan White were present. Representatives Bryan Holloway, Daniel McComas, Pat McElraft, Tom Murry, Tim Spear, and Ruth Samuelson were present.

**I – II. CALL TO ORDER & INTRODUCTORY REMARKS BY COCHAIRS:**

Senator Brown, Co-Chair, called the meeting to order, introduced Sgt-At-Arms staff, and offered introductory remarks.

**III. ADOPTION OF THE MINUTES OF JANUARY 5, 2012 COMMITTEE MEETING:**

Representative Spear moved for adoption of the January minutes. The vote was taken and the motion was approved.

**IV. COMMITTEE DISCUSSION OF POTENTIAL RECOMMENDATIONS TO THE LEGISLATIVE RESEARCH COMMISSION AND THE 2012 REGULAR SESSION OF THE GENERAL ASSEMBLY**

**A. TRANSFER MARINE FISHERIES MANAGEMENT TO THE WILDLIFE RESOURCES COMMISSION**

Senator Brown reminded members that we had mentioned this at a previous meeting.

Senator Jackson asked if this would include recreational and commercial fishing.

Senator Brown said that was correct.

Senator East said that this subject needs more thought and diligence. Fishing and wildlife can be political and he's not sure if the Committee is ready to make this recommendation. Senator East said there may be some benefit to doing this, but we really need to give this more thought.

Senator Brown asked staff to confirm that we are the last state to consolidate Marine Fisheries and Wildlife?

Mr. Jeff Hudson, Committee Counsel, responded that most other states have environmental protection and wildlife and natural resources divided, however, some are combined. Our structure does not fall into one of those typical groups.

Representative Samuelson thought that we were going to get some additional presentations today. She wants to know more about the proposed benefits of such a transfer in other states and what it will mean for North Carolina.

Senator Brown said that Marine Fisheries is a politicized agency and most folks are not happy with this. It has become a tough issue and this could streamline the processes.

Representative Samuelson asked if the Division of Marine Fisheries is moved to Wildlife Resources, what would be the proposed structure under the Wildlife Resources Commission? She believes that both agencies would have different issues to work out beforehand.

Senator Brown said that if we move forward then we will review it at the next meeting to get members thoughts.

Representative Spear believes that transferring the Division of Marine Fisheries is premature and he would recommend that we look at addressing the problems in the Marine Fisheries Division and perhaps restructuring them, rather than moving them. Politics will still play a part no matter where the Division of Marine Fisheries is moved. The Division of Marine Fisheries and the Wildlife Resources Commission have different purposes and we should take our time to review the problems beforehand.

Representative McComas asked if we will be voting at the next meeting.

Senator Brown advised that we would be.

Senator East does have concerns about dual enforcement, as the Wildlife Resources Commission does water enforcement on lakes and on the coast. This is dual enforcement in the rivers and inlets. Senator East has spoken with the Commissioner of Agriculture and other members of the Senate. As such, Senator East believes that we should consider commercial seafood a commodity, similar to beef and poultry. If the Department of Agriculture and Consumer Services could provide oversight, not enforcement powers, because the Commissioner does not want people with guns working for him. In closing, Senator East said that we need to slow down and do what's right for all the people in the State.

Senator Tucker followed-up on the comments about dual enforcement. He knows that Dr. Louis Daniel, Director of the Division of Marine Fisheries, and Mr. Gordon Myers, Executive Director of the Wildlife Resources Commission, have a good working relationship. There are some costs associated with each of these agencies, such as accounting. Thus, combining the two agencies could provide some savings.

Senator White agrees with Representative Spear and Senator East that we are moving too quickly with this. He has a little trouble understanding why we need to do this at this time. He thinks that if there is a problem with the Division of Marine Fisheries, then perhaps we should resolve the problems, rather than move them to another division. It is incumbent upon this Committee to address the problems prior to transferring an agency into another.

Senator Brown spoke again and said that there are problems that combining would be able to eliminate.

Representative McElraft is concerned about doing this without further discussion. She would like to see a subcommittee formed to discuss how other states have done this. She's not comfortable until she knows the pluses and minuses. Representative McElraft believes that the Division of Marine Fisheries is doing a very good job.

Representative Ingle believes it would be advantageous to combine the agencies, with regard to dual enforcement issues. Beef and poultry are more of a commodity, as they are farm raised, but fish are wild and free. Thus, fish are a little different. He saw a report this morning on the depletion of menhaden and is concerned, because if bait fish are depleted then there won't be any more fish.

Senator Rabon agrees with some of the comments from other members. He agrees with Senator Tucker that we need to look at the cost benefits to the State and how much it will save us to move personnel, procedures, etc. We need to be business driven rather than passion driven. Fish and seafood are currently wild species, but within the next decade this could change. If we don't look at this now we will have to in the future.

Senator East spoke again. The North Carolina Department of Agriculture advocates for North Carolina products and seafood is included in this.

Senator Preston has concerns with how the proposed recommendation is being described as a merger versus a transfer. Are the agencies being combined, moved, or joined together? She has been at this for 20 years and you don't act on fish issues in one day. She recalls that it took seven years for the blue crab moratorium and everyone was involved, including biologists, scientists, etc. If this process moves too fast then we'll have problems. This is comprehensive.

Senator Brown said that is why we are discussing it today.

Representative Spear said that the Fisheries Reform Act took a long time and it took many different stakeholders to put that together, as Senator Preston mentioned. This is too complicated to move too quickly. Fisheries should be managed by the State agencies, rather than the Legislature. It's not duplicative or dual enforcement; it's the way the waters are classified.

Representative Samuelson asked if we can hear from the agencies involved.

Dr. Louis Daniel, Director of Marine Fisheries, the Department of Environment and Natural Resources (DENR), addressed members. He's disappointed to hear about the problems referenced by the members, as he has not been aware of them. The Division of Marine Fisheries has different issues than the Wildlife Resources Commission does. As the Director of the Division of Marine Fisheries, he deals with fisheries management issues from Maine to Florida. The Division of Marine Fisheries makes decisions based on stock assessments. Managing fish as a commodity cannot be done. Fish is public trust and not a commodity. There are federal mandates that have to be met. He feels they have done a good job on the Fisheries Reform Act and believes it has helped. Marine Patrol and Wildlife Patrol have different jurisdiction issues. They do work together; however, they have different things to manage.

Mr. Gordon Myers, Executive Director of the Wildlife Resources Commission, addressed the members. Mr. Myers reiterated what Mr. Hudson said about the various organizational structures in other states. There are a range of models that currently exist. He noted that the Wildlife Resources Commission wants to maintain its operating structure. They will work with the Committee to do whatever they can to make sure that the agency is running properly.

Senator Tucker said that he was looking at this recommendation purely from a cost standpoint. He noted that Dr. Daniel's duties wouldn't change, but merging agencies is about saving money. Continuing to work together is what's important.

Representative Samuelson asked if this Committee would recommend this legislation for the Short Session.

Senator Brown said that we will discuss possible legislation in our next meeting.

Senator Tucker told Representative Samuelson that this was kicked around during last year's budget planning meetings.

Representative Samuelson said that this discussion is new on the House side. She doesn't serve on the House Agriculture Committee and didn't remember these discussions in any of other House Committee meetings.

## **B. TRANSFER ENFORCEMENT OF FISH DEALER ACTIVITIES TO THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICE**

Senator East said that this is about transferring fish dealer activities to the Commissioner of Agriculture. The Commissioner talks about the good things growing in North Carolina and would do the same thing for the commercial fishing industry. If we don't watch the regulations, the resource will be gone. He's been watching and he knows that boats aren't landing in North Carolina waters, but they are going to other states. This puts our people out of work if we don't have fishing boats coming in. This Committee should be looking at moving the fish dealers from under the Marine Fisheries Division. It is a commodity and it should be under Agriculture.

Senator East said that the federal government spends millions of dollars to dredge, but when the tide comes in it washes the sand back in. He has had meetings in Dare County with other senators. One of their conclusions is that it would be more advisable to build a jetty rather than a bridge. He feels that the Department of Agriculture and Consumer Services needs to have something to do with commodities and not enforcements.

The Division of Marine Fisheries and the Wildlife Resources Commission could work out the enforcement issues. Please give serious consideration to this. He said that the fish houses on the coast and fishermen could be under the Department of Agriculture and Consumer Services.

Senator Rabon said that since he lives on the coast he's seen enforcement people in fish houses, but he's never seen them in Food Lion or other grocery stores. Can someone define fish houses?

Dr. Daniel addressed members and explained. Moving this to the Department of Agriculture and Consumer Services would have a tremendous impact on the Division of Marine Fisheries' dealings with fish dealers. The Division of Marine Fisheries has to monitor fish quotas and this is done on a daily basis and is very critical. This type of quality data comes from daily actions and interactions with port agents and license and statistic staff. This could have some negative impact among dealers. Once a fisherman lands his boat he becomes a dealer.

This is the Division of Marine Fisheries' critical function with the fish houses. It could have a negative impact on commercial fishing. There are about 700 dealers in North Carolina. These are the folks who apply for licenses. If we can't monitor the quotas, then as Director he would have to shut the fisheries down, as he wouldn't be successful under the Section 10 (Endangered Species Act) obligations. Endangered species could also suffer because the Division of Marine Fisheries would not be able to perform their monitoring function.

Representative Spear asked what is, or are, the current problems that we have with fish dealer activities. What are we trying to fix?

Senator Brown said that this recommendation was tied to the possible merger recommendation.

Senator East said that this came about because the Marine Fisheries is under DENR. He wants to get the fishing operation out from under DENR regulations. The fisherman came up with the idea.

Representative Spear said that he is not opposed to the idea, but would like to know what problems there are.

Senator Preston asked if Dr. Daniel could explain the difference between commodities versus fisheries. Fisheries are public trust. Farmers have to plant corn or soybeans, no one plants fish. Duck, quail, deer, bear are not commodities. Our resources are along the coast and we must sustain them in harvesting.

Dr. Daniel explained that a public trust is something that belongs to everyone and his job is to protect all citizens of North Carolina. If we don't harvest the public trust in a sustainable way it's going to go away. If we protect the resources, then we can have more. The fisheries are not boundless and can only withstand so much pressure.

Senator Preston spoke about menhaden's stock status today versus previous years.

Dr. Daniel said that the stock data will come out this fall, but there may be some restraints that will come forward, because it is currently over-fished.

Dr. Daniel spoke on the genetics of farm raised products. There are many operations and opportunities to raise several species of fish that would be considered a commodity.

Representative Samuelson asked about this as a commodity.

Dr. Daniel said aquaculture was previously covered under the Joint Legislative Commission on Seafood and Aquaculture. However, this Commission was disbanded last year.

Representative Spear questioned who reports to whom between the Division of Marine Fisheries and the Wildlife Resources Commission.

Mr. Hudson explained the current structure. The Director of Marine Fisheries reports to the Secretary of Environment and Natural Resources. The Executive Director of the Wildlife Resources Commission reports to the governing board of the Wildlife Resources Commission. Mr. Hudson said that the Wildlife Resources Commission is separate as far as budgeting is concerned.

Representative Spear asked if we could structure the Division of Marine Fisheries similar to the Wildlife Resources Commission.

Mr. Hudson said that is a policy issue and at the will of the General Assembly.

Senator East asked Dr. Daniel to address the shellfish in shallow waters and if we are farming these?

Dr. Daniel said that we are not doing as much as we once did due to budget cuts, as some programs were lost. They do go out and move larvae to where it will produce and can be harvested. There are some federal funds for oyster sanctuaries, so when the oysters spawn they can go to commercial operations. This has not been a good year due to hurricanes. They have active lease programs where people can go plant oysters, clams, and muscles. The Division of Marine Fisheries is proactive and supportive of leasing for the purposes of propagating shellfish.

Senator Tucker said in response to Representative Spear's comments that if the two agencies are merged then we will have one Board, not two. By eliminating one of the Boards, we would save money. If we continue to have multiple boards this won't have the desired effect.

Senator Preston said that she thinks the Division of Marine Fisheries would love to have a similar structure to the Wildlife Resources Commission.

### **C. PROVIDE FUNDING/SUPPORT TO THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES FOR EXPANDED SEAFOOD MARKETING**

Senator Rabon asked where we can find the money to do this.

Representative Spear thinks this is a good idea and he supports this as long as "we don't rob Peter to pay Paul".

Representative Samuelson asked which seafood marketing are they referring to. The term "seafood" is very broad. She also asked where is the money coming from.

Senator Brown agreed that this is a money issue, but perhaps this is something we could look at.

#### **D. PROHIBIT CERTAIN COMMERCIAL HARVESTING OF MENHADEN**

Dr. Daniel explained that we no longer have a menhaden production plant in North Carolina. However, there is an Omega-3 Protein plant in Virginia. He is concerned about the bycatch associated with this species, as he mentioned at our February meeting. There are conflicts that have been brought forward with this issue. As far as specific actions to take, he feels that the Atlantic States Marine Fisheries Commission will take some actions to protect menhaden. This is a controversial issue and he would rather not take sides. It is his hope that we can rebuild stocks and take this slowly. This is a bait fish so we need to increase our stocks.

Senator Rabon made comments about the stock in 1970. He's not sure why it is not on the endangered species list. Omega-3 Protein comes from plants. The little fish eat the plants, the big fish eat little fish, and we eat the big fish that contain the Omega-3 Protein.

Representative Samuelson asked if we should wait for Dr. Daniel's report in May, so we could take action from what we learn.

Dr. Daniel said that based on the expectations there could be about a 30% reduction in the harvest. The report could also indicate that we have met the quotas and restrictions, so he's not sure because the data is not in yet.

Representative Spear believes that we need to make sure that the crab-pot fisherman, recreational fisherman, and bycatch fisheries are taken care of.

Senator Brown reminded him that this LRC Committee will not be active in May due to the start of the Short Session.

Dr. Daniel told members he will take this information and comments back to the Marine Fisheries Commission.

#### **E. ESTABLISH A LEGISLATIVE OVERSIGHT COMMISSION WITH JURISDICTION OVER FISH AND WILDLIFE MANAGEMENT**

Senator Tucker asked not to be included on this.

#### **F. DREDGING ISSUE**

Senator Brown added this to the agenda. He feels this is important and he's open to recommendations on creating a fund for the waterways. People who live on the coast understand the importance of this.

Senator East said he thinks there was a study done in Dare County some years ago on the economic impact of the Oregon Inlet and keeping it open. He knew that Mr. Warren Judd was in the audience and asked if he could address members and explain the study.

Mr. Warren Judd, Chairman of Dare County Commissioners, addressed members and explained the study they did six years ago. The purpose of the study was to convince the people in Washington, D.C.

of the importance of keeping the Oregon Inlet open. 70 million pounds of fish are caught there each year. Recreational fishing and commercial fishing contributes to the tourism industry. Fishing counts for about \$600 thousand dollars. \$45 million in federal taxes and \$43 million in State taxes are generated. The inlet is our road to work just like other parts of the State with highways. Sand is keeping some of their folks from going to work. The inlet brings families and fishermen to their county. There are generations of fishing families that rely on this inlet.

Senator East asked Mr. Judd about the new bridge in the planning stages. Would a jetty would help keep the inlet open?

Mr. Judd said that they believe it would. Jetties must be well engineered and there are several in North Carolina. It will not eliminate the need for dredging, but it would definitely help lessen the need for dredging.

Senator East suggests that this Committee communicate with the Transportation Committee to explore the possibility of a jetty. Why build a bridge for several hundred million dollars and not do what you can to keep that bridge open?

Senator White agrees with this idea. He has worked on this for years in finding ways to protect the inlet. Senator White heard it will be about \$50 million to build a jetty. It's also costly to build bridges. He has talked with the Department of Transportation several times and the design of the bridge is not final. Protecting the bridge from boats is important when boats come through the channel. The United States Army Corps of Engineers has said they wouldn't mind being involved if it will help with protection issues. The contract has been prepared with preliminary designs, but construction will not begin until a judge issues an order. The jetty would be a cost savings in the long run.

Senator Brown said going from terminal groins to jetties is a tough fight. He's looking for suggestions for revenue sources for dredging.

Representative McElraft asked if the marine fuel taxes could help provide funds for all inlets and jetties. We are also running out of money for public beaches and could possibly have a natural resources tax that tourists could help provide funds for?

Senator Brown asked her to write her comments and ideas down and submit them to the Co-chairs.

Senator east asked where the marine fuel taxes go.

Ms. Lanier McRee, Staff Fiscal Analyst, said the Wildlife Resources Commission collects a portion of that tax. It is not a large amount. She will check on the amount.

Senator Brown said we will bring forward recommendations at our next meeting.

Representative McElraft asked about a range of models from other states and what those states are doing.

Mr. Hudson said he will email some information to the members from our previous meeting.



Representative McElraft wants to know if there is data that includes money saving facts and information on why other states structured their agencies the way they did.

Mr. Hudson said it will be difficult to determine for other states. Some of these agencies were formed decades ago.

Representative McElraft said she would like to see arbitration between recreational and commercial fishermen. She would like them to work out a compromise instead of emails or blogs or TV shows. People need to sit down and work this out and work together.

Senator Brown said that the game fish bill will be debated when it comes up. He said this Committee cannot take up specific bills from session.

**V. ADJOURNMENT:**

Having no further discussion, the Committee adjourned at 2:45.

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Sen. Harry Brown, Presiding Chair

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Cindy J. Davis, Senate Committee Clerk